

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 04/19/2023-----X
CARL D. WELLS,

Petitioner,

-v-

SUPT MARK MILLER,

Respondent.
-----X

21-cv-11231 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Petition Carl D. Wells (“Petitioner”) submits the attached letter. The Court interprets the letter as a motion to strike the letter of David Bernstein, Dkt. No. 79-1, and as a motion for reconsideration of the Court’s March 27, 2023 Opinion and Order dismissing Petitioner’s petition without prejudice, Dkt. No. 81. The motions are denied.

Federal Rule of Civil Procedure 12(f) gives a court the power to strike “redundant, immaterial, impertinent, or scandalous matter” from pleadings, Fed. R. Civ. P. 12(f), defined by Rule 7 as complaints, cross- and counterclaims, answers, and replies to answers, *see* Fed. R. Civ. P. 7(a). Because Petitioner’s motion to strike is not directed at the pleadings, his motion is DENIED. *See Granger v. Gill Abstract Corp.*, 566 F. Supp. 2d 323, 334 (S.D.N.Y. 2008) (adopting recommendation that the court deny a motion to strike because “[m]otions, declarations and affidavits are not pleadings” that can be stricken under Rule 12(f)).

“A motion for reconsideration should be granted only if the movant identifies ‘an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.’” *Spin Master Ltd. v. 158*, 2020 WL 5350541, at *1 (S.D.N.Y. Sept. 4, 2020) (quoting *Kolel Beth Yechiel Mechil of Tartikov, Inc. v. YLL Irrevocable Tr.*, 729 F.3d 99, 104 (2d Cir. 2013)). “The standard for granting a motion for reconsideration ‘is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the Court.’” *Justice v. City of New York*, 2015 WL 4523154, at *1 (E.D.N.Y. July 27, 2015) (quoting *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995)). Because Petitioner has not identified any controlling decisions or data that the Court overlooked, his motion for reconsideration is DENIED.

SO ORDERED.

Dated: April 19, 2023
New York, New YorkLEWIS J. LIMAN
United States District Judge

①

Hon. Judge Lewis Liman, 3/28/23
(U.S.D.J.) Sipins

CHAMBERS: U.S. Courthouse
(S.D.N.Y.): 500 PEARL ST.
NYC 10007. . .

IN RE: 1:21-cv-11231 (CV) with U. Miller
SUBJECT: Request to STRIKE Letter by,
DAVID BERNSTEIN, Esq., O.R.D.,
DATED: March 23, 2023, From
THE COURT Docket, As it is
NOT official answer by Respondents,
Also, IT CONSTITUTES A Constitutional
Violation, U.S. Const. Amend 6, N.Y.
STATE Const. Art 1 § 6., Ineffective
Assistance of Appellate Counsel.

Hon. Judge Liman: MR. BERNSTEIN IS
NOT CONCERNED WITH HIS CLIENTS. HE
IS CONCERNED FOR THE AGENCY AND THE
NUMEROUS VIOLATIONS TO DATE, ON THE AND
STILL INEFFECTIVE REPRESENTATIONS. I
NOT EVEN SURE IF HE UNDERSTANDS
WHAT HE IS 'ACTUALLY SAYING'?

(2)

1:21-cv-11231(LJL)

3/28/23

Chambers:

"We Are Investigating": AFTER 2019,
 And Numerous extension Request And A
 Deadline of, 3/24/23. This Ruling of
 potential Juries, numerous objections by
 Each one, Due to way a 12-year delay
 is Apparent of the Court, And The Court
 instructions, which became subject of
 a Protonic motion, Appealed to the
 Chief Judge of the State Highest Court,
 And within a higher Corps this ended
 up to the Mr. Sycor, so what were
 taken place. Yes, if MR. BERNSTEIN
 wanted to know, of course, he would have
 Ask his Clerk? Or, Ms. MESSINA, say?
 For him to say that they are ready to
 Represent me, Please, Consistent defense
 Representation Anything to keep his Clerk
 in prison? to not mention Representation,
 And the truth is, this Mr. Sycor has had
 years to Gather information. Still, don't
 want to verify exactly what is And
 is not available?

(3)

1:21 CV 11231 (CV)
C. Chambers :

3/28/23

Judge Linn, I'm looking to the
 Honored Appellate hereby pleading for
 you not to Grant Hines Corpus, As they
 want you to be plea of Henson,
 concerning wires / transcripts, but to
 perfect an appeal without even say the
 words, Reinstatement Henson. This is
 the same play book and cannot defeat
 the U.S. Constitution, Are we there and
 procedural are we there Rights?
 Each Courtroom, many Judges and a
 number of Court officers, for years have
 overlooked Relief Required, And the
 Reality of The Truth?

I don't want
 Apologies, I want defense counsel on
 appeal, try to get me out of prison.
 It appears that MR. Bernstein and the
 O.A.N. are trying to keep me in prison?
 The Respondent Counsel did not meet
 the deadline, please, Grant Hines
 Corpus
 Cal well 11/17/47

Chambers

(4)

1:21-cv-11231 (LJL)
DECLARATION OF SERVICE

State of New York
County of Duchess } ss.:

Carl Wells, petitioner declares under penalty of perjury that on, March 29th, 2023, he served the annexed letter by having it mailed by prison staff, via Green Haven C.F., to a Regular US Post Office Box, served to:

Paul B. Lyons, Esq.
Room (PG) 28 Liberty St
NY NY 10005.

I, Carl Wells declare under penalty of perjury that the foregoing is true and correct. 28 USC § 1746

Executed the 28th day of March
2023.

Carl Wells petitioner Carl Wells

Wells, Carl
GREEN HAVEN CORRECTIONAL FACILITY
594 ROUTE 216
STORMVILLE, NY 12582

*11-A1747
B-2-242*

ALBANY NY 120

29 MAR 2023PM 4 L

NE000087

03/29/2023

US POSTAGE

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*U.S. Courthouse
Southern District
of New York
500 PEARL STREET
New York, NY*

10007

*Judge Lewis Linnam
(U.S.D.J.)*

LEGAL MAIL